



County of Los Angeles CHIEF EXECUTIVE OFFICE

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Chief Executive Officer

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March 28, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name of the Chief Executive Officer.

SACRAMENTO UPDATE

Executive Summary

This memorandum provides information on the following:

- **Pursuit of County Position to Oppose AB 218 (Dickinson).** This measure would prohibit a State or local agency from inquiring about criminal history on any initial employment application. Therefore, unless otherwise directed by the Board, consistent with existing policy to oppose any abridgement or elimination of the Board's powers, **the Sacramento advocates will oppose AB 218.**
- **Legislation of County Interest - AB 641 (Rendon).** This measure would grant child care providers the right to designate a representative to negotiate the terms and conditions of employment with the State.

Pursuit of County Position on Legislation

AB 218 (Dickinson), which as introduced on February 4, 2013, would prohibit a State or local agency from inquiring about criminal history on any initial employment application, except where otherwise required by existing law.

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Existing law prohibits public and private employers from asking applicants to disclose, either in writing or verbally, any information concerning an arrest or detention that did not result in a conviction. As introduced, AB 218 would prohibit a State or local agency from asking an applicant to disclose information regarding a criminal conviction on any initial employment application. Instead, the bill would authorize a local agency to inquire into and consider an applicant's criminal history after the applicant's qualifications have been screened and the agency has determined the applicant meets the minimum employment requirements. AB 218 would not apply to a position for which a local agency is otherwise required by law to conduct a criminal history background check or to any position within a criminal justice agency.

The Department of Human Resources (DHR) indicates that AB 218 would require the County to modify its current employment practices, thereby causing significant delays and inefficiencies in the hiring process. Consistent with longstanding Board policy, the County currently collects an applicant's personal and criminal history information on the initial job application. The County employment application clearly states that not all convictions constitute an automatic bar to employment. Factors such as a person's age at the time of the offense(s) and the date of the offense(s) are taken into account, as well as the relationship between the offense(s) and the job(s) for which the person is applying. As a general rule, actual criminal background checks are initiated at the time of hire, after the screening of qualifications and examination phase of the hiring process.

The County practices are detailed in the Department of Human Resources Policy Number 514 entitled "Designation of Sensitive Positions and Requirements for Criminal History Information," which was first implemented in 1998. In that year, the Board resolved that the County should not place a person in a sensitive position of employment if he or she has been convicted of a felony or a misdemeanor, except that such conviction may be disregarded if it is determined that there were mitigating circumstances or that the conviction is not related to the position and poses no threat or risk to the County or to the public. The Board resolution further directed that all County departments must secure criminal conviction information on candidates being considered for positions within the following categories:

- Positions that involve the care, oversight, or protection of persons through direct contact with such persons;
- Positions having direct or indirect access to funds or negotiable instruments;
- Positions that require State and/or professional licensing;
- Positions that involve public safety and/or law enforcement;
- Positions that have access to or charge for drugs or narcotics;
- Positions that have access to confidential or classified information including criminal conviction information; and

- Positions that involve the care, oversight, or protection of County, public or private property.

The County has carefully balanced the interests of individuals with convictions against its obligation to safeguard the public wellbeing and the integrity of County employment. At the same time, DHR has developed a transparent system that provides an applicant a fair opportunity to seek public sector employment. The County employment system encourages persons with convictions to apply for employment by not only advising applicants of the basis by which convictions are evaluated, but also clearly highlighting the fact that a conviction may not bar an applicant from employment.

This bill is substantially similar to **County-opposed AB 1831 (Dickinson) of 2012**, which would have prohibited a local agency from inquiring into or considering the criminal history of an applicant on any initial employment application. AB 1831 died in the Senate Governance and Finance Committee.

This office and the Department of Human Resources recommend an oppose position on AB 218. Therefore, unless otherwise directed by the Board, consistent with existing policy to oppose any abridgement or elimination of the Board's powers and duties unless the change promotes a higher priority of the Board, **the Sacramento Legislative Advocates will oppose AB 218.**

AB 218 is co-sponsored by the National Employment Law Project and Legal Services for Prisoners with Children. It is opposed by the California State Association of Counties.

AB 218 is scheduled to be heard in the Assembly Judiciary Committee on April 2, 2013.

Legislation of County Interest

AB 641 (Rendon), which as amended on March 19, 2013, would authorize licensed family child care providers and license-exempt child care providers the right to choose a representative to collectively negotiate the terms and conditions of employment with the State over the operation of the child care system.

California's subsidized child care programs assist low-income working families, CalWORKs families participating in welfare-to-work activities, and who have left the CalWORKs Program, and families whose children are found at risk of abuse or neglect. These families may choose from three types of subsidized child care providers: 1) licensed child care centers; 2) licensed family child care homes; or 3) license-exempt providers, which are typically relatives or friends.

AB 641 would authorize family child care providers, which can include licensed family child care providers and license-exempt child care providers, to designate a provider organization to be its exclusive representative for the purpose of negotiating joint-labor management agreements, contract grievance arbitration, provider benefits, reimbursement rates, access to professional development and training, expanded access to food and nutrition programs, and payment procedures for child care subsidy programs. A provider organization, which would be certified by the Public Employment Relations Board, would be authorized to charge child care providers for activities related to representation. Additionally, the bill would prohibit a provider organization from calling or directing a strike.

The bill would require the California Departments of Social Services and Education, at the request of the designated provider organization, to provide information regarding child care providers including each provider's name, home address, mailing address, telephone number, email address and license number. In addition, the State may seek the assistance of any State department or entity in possession of relevant information regarding child care providers, including whether or not any provider participated in a child care subsidy program in the previous six months, to make that information available to the provider organization. The provider organization would cover reasonable costs for collecting this information.

AB 641 also would require the Governor, through the State Department of Personnel, and in consultation with the Superintendent of Public Instruction, other State agencies that administer subsidized child care programs, and their contractors to meet and confer with the certified provider organization. Child care providers would be deemed to be self-employed and would not be considered public employees. Any agreement reached between the Governor and the provider organization requiring an appropriation or statutory or regulatory change would be subject to legislative approval. In addition, the bill would establish a Family Child Care Parent Advisory Committee which would advise the Governor, and any certified provider organization, on issues related to the quality, affordability, and accessibility of child care offered through the State's subsidy programs, including strategies to improve these areas.

As amended, AB 641 is substantially similar to that of AB 101 (Pérez) of 2011, which would have authorized licensed family child care providers and license-exempt child care providers to designate a provider organization to negotiate the terms and conditions of employment. However, AB 101 did not provide for the establishment of a Family Child Care Parent Advisory Committee.

On October 4, 2011, Governor Brown vetoed AB 101. In his veto message, the Governor noted that maintaining the quality and affordability of childcare is a very

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important goal. So, too, is making sure that working conditions are decent and fair for those who take care of our children. However, the Governor indicated that this is not easy to do or free from dispute, and that because of the budget challenges the State was facing at that time, he was reluctant to embark on a program of this magnitude and potential cost.

AB 641 is sponsored by the American Federation of State, County and Municipal Employees and the Services Employees International Union. There is currently no registered opposition on file. This measure is scheduled for a hearing in the Assembly Labor and Employment Committee on April 10, 2013.

This office, the Department of Public Social Services, and County Counsel are reviewing AB 641 to determine its impact on the County.

We will continue to keep you advised.

WTF:RA
MR:PC:ma

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants